



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 12, 2020
MOAHR Docket No.: 20-005669
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 1, 2020.

Petitioner appeared unrepresented. [REDACTED] appeared as a witness.

The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearings Facilitator.

Department Exhibit A.17 was offered and admitted into evidence.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], 2020, Petitioner applied for MA.
2. On August 6, 2020, MA was approved with an \$849.00 deductible.
3. On August 28, 2020, Petitioner filed a hearing request disputing the amount of his spend-down.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Individuals who are asserting rights to welfare benefits have the burden of proof, by a preponderance of evidence.

In this case, applicable policy and procedure is found primarily at BAM 130, 220; BEM 500, 503, and 541. Under this policy and corresponding income and deduction procedures, the Department lays out procedures for MA budgeting for MA eligibility.

In this case, Petitioner did not dispute the income or deductions used in the MA budget. Rather, Petitioner argues that his gasoline, groceries, and personal expenses cannot be met with his remaining income after he meets his spend down each month, and that he "cannot afford the deductible and it is unrealistic."

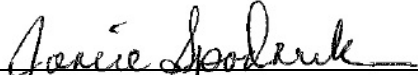
Petitioner is correct. However, Petitioner offered no law or policy that would allow the Department to deduct his groceries or gasoline for his motor vehicle on the MA budget. Unfortunately, the undersigned has no authority to overrule or deviate from the standard allowable expenses and income used in calculating MA eligibility. There was some discussion regarding medical expense deductions which Petitioner may be eligible for. And in fact, the Department allows for Petitioner's Part B expense. However, Petitioner has not submitted any other medical verifications that would be allowed on the MA budget per policy. Petitioner understands that if he has other medical expenses that he needs to submit verification of the same.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it calculated Petitioner's MA case with an \$849.00 monthly spend down. As such, the Department's actions must be upheld.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

JS/ml



Janice Spodarek
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Amber Gibson
Ingham County DHHS – via electronic
mail

BSC2 – via electronic mail

D. Smith – via electronic mail

EQAD – via electronic mail

Petitioner

[REDACTED] – via first class mail
[REDACTED], MI [REDACTED]